



Natural Resources Conservation Service  
P.O. Box 1458  
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6/21/07

## **Requirements for NRCS-approved Technical Service Providers in North Dakota; Certified Conservation Planner category and CNMP Plan Approval category**

Conservation planning activity performed by NRCS or by Technical Service Providers (TSPs) for USDA programs must comply with the National Historic Preservation Act of 1966, related Executive Orders, and related Federal laws. However, NRCS retains responsibility for all decision-making and consultation required of Federal agencies related to compliance with several resources protection laws, including but not limited to the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), and the National Environmental Policy Act (NEPA). Technical Service Providers are expected to gather information to enable NRCS' compliance with the NHPA and must meet the Secretary of Interior's professional qualification standards as specified in Section 112(a)(1)(A) of the Act and in the implementing regulations for section 106 of the NHPA at 800.2(a)(1) and 800.2(a)(3). Such TSPs shall be used in accordance with 800.2(a)(3) ("Use of Contractors"). Technical Service Providers shall work with the program participants to ensure that all approvals, authorities, rights, permits, and easements necessary for conduct of this cultural resources activity have been obtained prior to implementation of the work.

TSPs must also comply with North Dakota state laws regarding historic preservation. Prospective TSPs and approved TSPs should be aware of the requirements detailed in the North Dakota Century Code. Two such provisions are as follows;

**55-03-01. Permit required to investigate, evaluate, or mitigate adverse effect on cultural resources, historic buildings, structures, or objects - Application - Fee.** Any person engaged in identifying, evaluating, or mitigating adverse effects on cultural resources, historic buildings, structures, or objects on any lands in North Dakota, under section 106 of the National Historic Preservation Act of 1966 [Pub. L. 89-665; 80 Stat. 915; 16 U.S.C. 470, as amended by Pub. L. 91-243, Pub. L. 93-54, Pub. L. 94-422, and Pub. L. 94-458], 36 CFR 800, or subdivision u of subsection 1 of section 38-14.1-14, shall obtain an annual permit from the director of the state historical society. The permit application must be in the form prescribed by the director. Each application must be accompanied by a filing fee of one hundred dollars. The director may waive the fee requirement if the applicant is an instrumentality of the state. Following issuance of the annual permit, the permittee shall submit to the state historical society payment in the amount of fifty dollars with every cultural resources identification, evaluation, and mitigation report submitted to the director in compliance with the federal and state statutory and regulatory requirements identified in this section. A permittee submitting a report on behalf of a nonprofit corporation formed under chapter 10-33 does not have to pay the fee for filing the report.

**55-03-01.1. Permit required to investigate, excavate, or otherwise record cultural resources on land owned by an instrumentality of the state and to excavate cultural resources on private land.** Any person engaged in the investigation, excavation, or other recording of cultural resources on land owned by an instrumentality of the state or in the excavation of cultural resources on private land for any purposes other than those

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identified in section 55-03-01 first shall obtain a permit from the director. A permit may be granted only for the investigation, excavation, or other recording of cultural resources at the locations described in the application for permit. Each application must be accompanied by a fee of one hundred dollars.

Additional requirements are detailed in the North Dakota Century Code,  
<http://www.legis.nd.gov/information/statutes/cent-code.html> .

For more information on TSP certification requirements in North Dakota, contact  
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